

AMENDED IN ASSEMBLY AUGUST 28, 2003

AMENDED IN ASSEMBLY JULY 16, 2003

SENATE BILL

No. 774

Introduced by Senator Vasconcellos

(Principal coauthor: Assembly Member Nation)

(Coauthors: Assembly Members *Berg, Firebaugh, Goldberg, Hancock, Jerome Horton, Koretz, Laird, Leno, Levine, Liu, Longville, Lowenthal, and Vargas*)

February 21, 2003

~~An act to amend Sections 4140, 4142, 4145, and 4147 of, to add Sections 4142.2, 4142.4, 4142.6, and 4142.8 to, and to repeal Section 4146 of, the Business and Professions Code, and to amend Sections 11364 and 11364.5 of the Health and Safety Code, relating to hypodermic needles and syringes. An act to amend Section 4145 of, and to repeal Section 4146 of, the Business and Professions Code, to amend Section 11364 of, and to add Chapter 16 (commencing with Section 121350) to Part 4 of Division 105 of, the Health and Safety Code, and to amend Sections 41770 and 41900 of, and to add Section 41803 to, the Public Resources Code, relating to hypodermic needles and syringes.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 774, as amended, Vasconcellos. Hypodermic needles and syringes.

(1) Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes. Under existing law, a prescription is required to purchase a hypodermic needle or syringe for human use, except to administer adrenaline or insulin.

This bill would authorize a licensed pharmacist to sell or furnish 30 or fewer hypodermic needles or syringes to a person for human use without a prescription ~~under specified conditions if the pharmacy is registered with a local health department in the Disease Prevention Demonstration Project that would be created by the bill to evaluate the long-term desirability of allowing licensed pharmacies to sell or furnish nonprescription hypodermic needles or syringes to prevent the spread of blood-borne pathogens, including HIV and hepatitis C. The bill would require local health departments to register pharmacies in the program and to cooperate with the Office of AIDS of the State Department of Health Services, thereby imposing a state-mandated local program. The bill would require the Office of AIDS of the State Department of Health Services, in conjunction with an advisory panel, to evaluate the effects of allowing the sale of hypodermic needles or syringes without prescription, and would require a report to be submitted to the Governor and the Legislature by January 15, 2007, subject to funding being available from federal or private sources. The demonstration program would terminate on December 31, 2007. Alternatively, the bill would also authorize the sale or furnishing of hypodermic needles or syringes to a person for human use without a prescription if the person is known to the furnisher and has previously provided the furnisher with a prescription or other proof of a legitimate medical need.~~

(2) Existing law requires a person to properly establish his or her identity in order to purchase a needle or syringe. Existing law requires a pharmacist to keep detailed records of nonprescription sales of hypodermic needles and syringes.

This bill would delete both the identity requirement and the that requirement that a pharmacist keep detailed records of nonprescription sales of hypodermic needles and syringes.

(3) Existing law prohibits the possession and sale of drug paraphernalia.

This bill, until December 31, 2007, would authorize a person to possess up to 30 or fewer hypodermic needles or syringes if acquired through an authorized source.

(4) Existing law prohibits the disposal of hypodermic needles and syringes in certain cases.

This bill would increase the criminal penalty for improper disposal of hypodermic needles and syringes in certain cases, thereby imposing a state-mandated local program.

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Existing law requires a county or regional agency to prepare an integrated waste management plan based on submissions from cities and the county that includes a program element for the safe collection, recycling, treatment, and disposal of hazardous waste generated by households that should be separated from the solid waste stream.

This bill would authorize, as part of the update of the household waste element described above, a program to be identified for the safe collection, recycling, treatment, and disposal of household sharps waste, defined to mean hypodermic needles, syringes, and lancets. The bill would enact other related provisions.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~SECTION 1. Section 4145 of the Business and Professions~~
3 ~~Code is amended to read:~~
4 4145. (a) Notwithstanding any other provision of law, a
5 pharmacist or physician may, without a prescription or a permit,
6 furnish hypodermic needles and syringes for human use ~~in the~~
7 ~~administration of insulin or adrenaline; a pharmacist or~~

~~veterinarian may, without a prescription or license, furnish hypodermic needles and syringes for use on poultry or animals; and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist or physician for human use in the administration of insulin or adrenaline, or from a pharmacist, veterinarian, or licenseholder, for use on poultry or animals; if all one of the following requirements are is met:~~

~~(a) No~~

(1) The person is known to the furnisher and the furnisher has previously been provided a prescription or other proof of a legitimate medical need requiring a hypodermic needle or syringe to administer a medicine or treatment.

(2) For the period commencing January 1, 2004, and ending December 31, 2007, a pharmacist may furnish or sell 30 or fewer hypodermic needles or syringes at any one time to a person 18 years of age or older if the pharmacist works for a pharmacy that is registered for the Disease Prevention Demonstration Project pursuant to Chapter 16 (commencing with Section 121350) of Part 4 of Division 105 of the Health and Safety Code and the pharmacy complies with the provisions of that chapter.

(b) Notwithstanding any other provision of law, a pharmacist, veterinarian, or person licensed pursuant to Section 4141 may, without a prescription or license, furnish hypodermic needles and syringes for use on animals, and a person may, without a prescription or license, obtain hypodermic needles and syringes from a pharmacist, veterinarian, or person licensed pursuant to Section 4141 for use on animals, providing that no needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

~~(b) The furnisher, at the time furnishing occurs, makes a record of the furnishing in the manner required by Section 4146.~~

SEC. 2. Section 4146 of the Business and Professions Code is repealed.

~~4146. Any furnishing of a hypodermic syringe or hypodermic needle without a prescription shall, at the time of furnishing, be recorded in a book by the furnisher. The record of furnishing shall consist of the date and hour of the furnishing, the type or kind, size, and quantity of syringe or needle furnished, the purpose and use for which the needle or syringe was obtained, the signature of the~~

~~furnisher, and the signature and address of the person to whom the
needle or syringe was furnished. The record book shall be
available for inspection by any authorized officer of the law.~~

*SEC. 3. Section 11364 of the Health and Safety Code is
amended to read:*

*11364. (a) It is unlawful to possess an opium pipe or any
device, contrivance, instrument, or paraphernalia used for
unlawfully injecting or smoking (1) a controlled substance
specified in subdivision (b), (c), or (e), or paragraph (1) of
subdivision (f) of Section 11054, specified in paragraph (14), (15),
or (20) of subdivision (d) of Section 11054, specified in
subdivision (b) or (c) of Section 11055, or specified in paragraph
(2) of subdivision (d) of Section 11055, or (2) a controlled
substance which is a narcotic drug classified in Schedule III, IV,
or V.*

*(b) This section shall not apply to hypodermic needles or
syringes that have been containerized for safe disposal in a
container that meets state and federal standards for disposal of
sharps waste.*

*(c) For the period commencing January 1, 2004, and ending
December 31, 2007, subdivision (a) shall not apply to the
possession solely for personal use of 30 or fewer hypodermic
needles or syringes if acquired from an authorized source.*

*SEC. 4. Chapter 16 (commencing with Section 121350) is
added to Part 4 of Division 105 of the Health and Safety Code, to
read:*

CHAPTER 16. DISEASE PREVENTION DEMONSTRATION PROJECT

*121350. (a) The Disease Prevention Demonstration Project,
a collaboration between pharmacies and local and state health
officials, is hereby authorized for the purpose of evaluating the
long-term desirability of allowing licensed pharmacists to furnish
or sell nonprescription hypodermic needles or syringes to prevent
the spread of blood-borne pathogens, including HIV and hepatitis
C.*

*(b) The Office of AIDS shall, subject to the availability of
federal or private funds for these purposes, evaluate the effects of
allowing pharmacists to furnish or sell a limited number of
hypodermic needles or syringes without prescription, and provide*

1 a report to the Governor and the Legislature on or before January
2 15, 2007. The report shall include, but need not be limited to, the
3 effect of nonprescription hypodermic needle or syringe sale on all
4 of the following:

5 (1) Hypodermic needle or syringe sharing practice among
6 those who inject illegal drugs.

7 (2) Rates of disease infection caused by hypodermic needle or
8 syringe sharing.

9 (3) Needlestick injuries to law enforcement officers and waste
10 management employees.

11 (4) Drug crime or other crime in the vicinity of pharmacies.

12 (5) Safe or unsafe discard of used hypodermic needles or
13 syringes.

14 (6) Rates of injection of illegal drugs.

15 (c) The Office of AIDS, subject to the availability of federal or
16 private funds for this purpose, shall convene an uncompensated
17 advisory panel comprised all of the following: two or more
18 specialists in the control of infectious diseases; one or more
19 representatives of the California State Board of Pharmacy; one or
20 more representatives of independent pharmacies; one or more
21 representatives of chain pharmacy owners; one or more
22 representatives of law enforcement executives, such as police
23 chiefs and sheriffs; one or more representatives of rank and file law
24 enforcement officers; a specialist in hazardous waste management
25 from the State Department of Health Services; one or more
26 representatives of rank and file waste haulers; one or more
27 representatives of the waste management industry; and one or
28 more representatives of local health officers.

29 (d) Local health departments shall be responsible for all of the
30 following:

31 (1) Maintaining a list of all pharmacies within the local health
32 department's jurisdiction that have registered under the Disease
33 Prevention Demonstration Project.

34 (2) Providing pharmacies with written information that can be
35 reproduced that is to be provided in writing or orally by the
36 pharmacy at the time of furnishing or sale of nonprescription
37 hypodermic needles or syringes, including all of the following:

38 (A) Local options for accessing drug treatment.

39 (B) Local options for accessing testing and treatment for HIV
40 and hepatitis C.

1 (C) Local options for safe disposal of sharps waste, including,
2 if available, the locations of authorized needle exchange
3 programs, home-generated sharps consolidation points as defined
4 in Section 117904, or medical waste generators for disposal
5 pursuant to Section 118147.

6 (3) Cooperating with the Office of AIDS in the collection and
7 analysis of data relative to the evaluation of the Disease
8 Prevention Demonstration Project, as needed.

9 (e) In order to furnish or sell nonprescription hypodermic
10 needles or syringes as part of the Disease Prevention
11 Demonstration Project, a pharmacy shall do all of the following:

12 (1) Register with the local health department by providing a
13 contact name and related information, and certifying that it will
14 provide, at the time of furnishing or sale of hypodermic needles or
15 syringes, written information or verbal counseling on all of the
16 following:

17 (A) Local options for accessing drug treatment.

18 (B) Local options for accessing testing and treatment for HIV
19 and hepatitis C.

20 (C) Local options for safe disposal of sharps waste, including,
21 if available, the locations of authorized needle exchange
22 programs, home-generated sharps consolidation points as defined
23 in Section 117904, or medical waste generators for disposal
24 pursuant to Section 118147.

25 (2) Store hypodermic needles and syringes so that they are
26 available only to authorized personnel, and not openly available
27 to customers.

28 (3) In order to provide for the safe disposal of hypodermic
29 needles and syringes, a registered pharmacy shall provide one or
30 more of the following options:

31 (A) An onsite safe hypodermic needle and syringe collection
32 and disposal program.

33 (B) Furnish or make available for purchase mail-back sharps
34 disposal containers authorized by the United States Postal Service
35 that meet applicable state and federal requirements, and provide
36 tracking forms to verify destruction at a certified disposal facility.

37 (C) Furnish or make available for purchase personal sharps
38 disposal containers that meet state and federal standards for
39 disposal of medical waste.

1 (f) *As used in this chapter, “sharps waste” means hypodermic*
2 *needles, syringes, and lancets.*

3 SEC. 6. *Section 41770 of the Public Resources Code is*
4 *amended to read:*

5 41770. (a) ~~Each~~ *Except as provided in subdivision (d), each*
6 *countywide or regional agency integrated waste management*
7 *plan, and the elements thereof, shall be reviewed, revised, if*
8 *necessary, and submitted to the board every five years in*
9 *accordance with the schedule set forth under Chapter 7*
10 *(commencing with Section 41800).*

11 (b) *Any revisions to a countywide or regional agency*
12 *integrated waste management plan, and the elements thereof, shall*
13 *use a waste disposal characterization method that the board shall*
14 *develop for the use of the city, county, city and county, or regional*
15 *agency. The city, county, city and county, or regional agency shall*
16 *conduct waste disposal characterization studies, as prescribed by*
17 *the board, if it fails to meet the diversion requirements of Section*
18 *41780, at the time of the five-year revision of the source reduction*
19 *and recycling element.*

20 (c) *The board may review and revise its regulations governing*
21 *the contents of revised source reduction and recycling elements to*
22 *reduce duplications in one or more components of these revised*
23 *elements.*

24 (d) *On and after January 1, 2004, when a county or regional*
25 *agency revises its countywide or regional integrated waste*
26 *management plan and its elements, the city and county household*
27 *hazardous waste elements may be updated to include a program*
28 *for the safe collection, treatment, and disposal of sharps waste*
29 *generated by households. As used in this subdivision “sharps*
30 *waste” means hypodermic needles, syringes, and lancets.*

31 SEC. 7. *Section 41803 is added to the Public Resources Code,*
32 *to read:*

33 41803. *In addition to the provisions of Section 41802, any*
34 *household hazardous waste plan submitted to the board after*
35 *January 1, 2004, may include a program for the safe collection,*
36 *treatment, and disposal of sharps waste generated by households*
37 *that may include the following:*

38 (a) *The designation of authorized locations such as household*
39 *hazardous waste collection facilities, designated hospitals and*
40 *clinics, and fire stations, that will accept sharps waste.*

1 (b) Efforts by the local agency to inform and encourage the
2 public to return sharps waste to designated collection locations.

3 (c) Efforts by the local agency to inform and encourage the
4 public to subscribe to mail-back programs authorized by the
5 United States Postal Service.

6 (d) Expenditures for the safe collection, treatment, and
7 disposal of sharps waste, consideration of the feasibility of
8 offering low-cost mail-back programs for senior and low-income
9 households.

10 As used in this section “sharps waste” means hypodermic
11 needles, syringes, and lancets.

12 SEC. 8. Section 41900 of the Public Resources Code is
13 amended to read:

14 41900. Each city and county shall demonstrate a funding
15 source, or sources, available to pay for preparing, adopting, and
16 implementing the element or plan, as required by this part,
17 including fees imposed pursuant to Section 41901. Plans
18 submitted after January 1, 2004, may also include the
19 identification of funding sources for the collection, treatment, and
20 disposal of sharps waste generated by households. As used in this
21 section “sharps waste” means hypodermic needles, syringes, and
22 lancets.

23 SEC. 9. Notwithstanding Section 17610 of the Government
24 Code, if the Commission on State Mandates determines that this
25 act contains costs mandated by the state, reimbursement to local
26 agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code. If the statewide cost of the
29 claim for reimbursement does not exceed one million dollars
30 (\$1,000,000), reimbursement shall be made from the State
31 Mandates Claims Fund.

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34 **All matter omitted in this version of the**
35 **bill appears in the bill as amended in the**
36 **Assembly, July 16, 2003 (JR 11)**
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